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Committee against Torture
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Summary record of the first part (public)* of the 1351st meeting
Held at the Palais Wilson, Geneva, on Wednesday, 12 August 2015, at 3 p.m.

Chairperson: Mr. Grossman

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* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.1351/Add.1.

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The meeting was called to order at 3.05 p.m.

Consideration of reports submitted by States parties under article 19 of the Convention (*continued*)

Report on follow-up to concluding observations

1. **Mr. Modvig** (Rapporteur on follow-up to concluding observations), summarizing the current follow-up procedure, said that the recommendations that were selected for follow-up had to be achievable within one year, involve serious concerns and be of a protective nature. The Committee had decided that the procedure would focus on four areas, namely access to fundamental legal safeguards relating to the deprivation of liberty, investigations into allegations of torture and ill-treatment, the prosecution and punishment of perpetrators of torture and redress for victims, and that the number of recommendations would be limited to four.

2. A document was available on the Committee website which provided a summary of all the State party reports submitted since the introduction of the follow-up procedure in 2003. Compliance with the procedure had stood at between 75 and 80 per cent following its introduction but had fallen slightly over time. Overall compliance with the procedure for the 50th to 52nd sessions stood at 72 per cent. However, that figure could in fact be greater, as the Committee often received reports with a considerable delay. The level of compliance with the procedure was therefore stable or gradually increasing.

3. When a State party failed to submit a follow-up report in spite of having been reminded to do so, the recommendations selected for follow-up were automatically transmitted to the State party when its next periodic report became due, either in a list of issues prior to reporting or in the list of issues prepared following the submission of a periodic report. Civil society organizations also played an important role in the follow-up procedure by transmitting useful information to the Committee in the form of shadow reports or informal communications.

4. At its 55th session, the Committee had adopted new guidelines on its follow-up procedure. The purpose of the new guidelines was to strengthen the follow-up procedure and to align it with that of other treaty bodies, such as the Human Rights Committee. The new guidelines provided for the possibility of using an assessment system when considering States parties' follow-up reports and of communicating the results of the assessment to the State party in writing; inviting States parties to devise an implementation plan for some or all of the Committee's recommendations, particularly those that had not been selected for follow-up; organizing meetings between Committee members and States parties on follow-up, including in cases of non-compliance; highlighting the recommendations for follow-up in the Committee's concluding observations and in lists of issues prior to reporting or the list of issues prepared following the submission of a periodic report; making recommendations clearer and easier to act upon; consolidating the role of civil society organizations and national human rights institutions in supporting and monitoring efforts to give effect to the Committee's recommendations; and strengthening the procedure for reminding States parties which had failed to submit a follow-up report to do so. It was hoped that the new guidelines would be made publicly available in the near future.

5. **Ms. Gaer** said that she welcomed the new guidelines on the Committee's follow-up procedure. Noting that the level of compliance with the follow-up procedure was again on the rise, she asked whether more follow-up reports had been received from States parties which were behind in their reporting obligations; whether there had been any change in the geographical distribution of the States parties submitting follow-up reports; and whether the follow-up reports received met the required standards.

6. **Mr. Modvig** said that it was his impression that States parties which were behind in their reporting obligations also experienced difficulties in submitting follow-up reports. The geographical distribution of the States parties submitting follow-up reports remained largely unchanged. There continued to be a low level of compliance with the follow-up procedure in the African and Asian regions. It was hoped that the measures provided for in the new guidelines would allow the Committee to assist States parties wishing to submit a follow-up report but which struggled to do so for a variety of reasons. Capacity-building initiatives could also help to improve compliance with the follow-up procedure. The reports received thus far at least partially met the required standards but showed that States parties only took up and acted upon a certain number of the Committee's recommendations at a time. The implementation plan provided for in the new guidelines could help States parties take up and act upon a greater number of recommendations.

7. **The Chairperson** thanked Mr. Modvig and all those who had contributed to the drafting of the new guidelines on the follow-up procedure. He took it that the Committee wished to adopt the guidelines as they stood.

8. *It was so decided.*

Organizational and other matters (continued)

Draft guidelines on the receipt and handling of allegations of reprisals against individuals and organizations cooperating with the Committee under articles 13, 19, 20 and 22 of the Convention (continued) (CAT/C/55/R.1)

9. **Mr. Tugushi** (Rapporteur on reprisals) said that the Committee had successfully streamlined its approach to dealing with reprisals. After having appointed the rapporteurs on reprisals, the Committee had proceeded to draft guidelines on the receipt and handling of allegations of reprisals against individuals and organizations cooperating with the Committee under articles 13, 19, 20 and 22 of the Convention. The Committee had already dealt with a number of cases of reprisals. Progress had been made in one case concerning an individual residing in Bahrain against whom charges had been brought. The King of Bahrain had since pardoned the individual on health grounds but the situation had not yet been fully resolved. No progress had been made in the case concerning the closure of NGOs which cooperated with the Committee in the Russian Federation. It was hoped that the new guidelines on reprisals would help to expedite the Committee's work in that area.

10. **Mr. Bruni** (Rapporteur on reprisals) said that the new guidelines on reprisals were inspired by the Guidelines against Intimidation or Reprisals (San José Guidelines) (HRI/MC/2015/6) adopted at the 27th meeting of the Chairpersons of the human rights treaty bodies and laid down the technical procedure to be followed when the Committee received allegations of reprisals. In the past, the Committee had dealt with a number of cases of reprisals under article 20 and several cases involving the threat of reprisals under the individual complaint procedure provided for under article 22. When there was a risk of an individual suffering reprisals or intimidation for having filed a complaint under article 22, the Committee, when prescribing interim measures, requested States parties to take the measures necessary to protect the complainant.

11. **The Chairperson** thanked Mr. Tugushi and Mr. Bruni for their work in following up on cases of reprisals and for having taken the lead in drafting the new guidelines. He recalled that the Committee against Torture had been among the first of the treaty bodies to appoint rapporteurs on reprisals.

12. **Mr. Modvig** asked whether reprisals had been prevented or stopped as a result of the Committee's interventions.

13. **Mr. Tugushi** said that, in the majority of cases, the reprisals had already been taken and that the Committee was forced to take reactive measures. However, in a case concerning an individual residing in Cyprus, the Committee had been alerted to the possibility of reprisals being taken and had intervened and prevented them. The Committee could prevent other reprisals if it was alerted in time and if the States parties concerned demonstrated the requisite political will to act. Many victims of reprisals approached the Committee as a last resort, often through civil society organizations, as information on the assistance available to them was not readily accessible. In the past, the Committee had been successful in securing the pardon or release of victims. To date, the Committee had received relatively few allegations of reprisals, which allowed it to deal with those that it had received more efficiently.

14. **Mr. Bruni** said that the Committee was also devising a specific procedure for dealing with reprisals under article 20. The advances made in the field of information and communication technology had greatly expedited the process of dealing with cases of reprisals and intimidation. The Committee had recently intervened in a case where an individual who was cooperating with the Committee was being intimidated by a public official. The intimidation had ceased as soon as the Committee had informed the authorities of the State party and requested them to take action. The individual complaint procedure under article 22 was more effective in dealing with reprisals, as when the Committee warned a State party about the possibility of reprisals being taken against an individual, in the written correspondence exchanged during the consideration of communications the State party normally reassured it that the individual was not at risk and that there was no need to take special protective measures.

15. **Ms. Gaer** asked whether the rapporteurs on reprisals considered the definition of reprisals contained in the San José Guidelines to be broad enough to cover all the cases of reprisals and intimidation referred to the Committee. Referring to paragraph 3 of the San José Guidelines, she noted that some doubts persisted over whether acts or omissions were systematically attributable to the State when they were carried out with the consent or acquiescence of an official against any individuals or groups cooperating with a treaty body. She asked whether the rapporteurs on reprisals found the wording of that paragraph to be acceptable.

16. **Ms. Belmir** said that she wondered whether something more needed to be done to ensure that, when necessary, people and organizations exposed to the risk of reprisals came forward. She also wondered what the Committee could do to take action against reprisals more swiftly and more effectively.

17. **Mr. Bruni** said that Ms. Belmir was correct to stress the importance of making the individuals and organizations concerned fully aware of the mechanism to prevent, monitor and follow up on cases of reprisal. For that reason, the guidelines would be made public once they were completed. In addition, individuals submitting communications could be systematically informed of the guidelines, which would be posted on the Committee's website, so that they would know how to approach the Committee in the event that they were subjected to intimidation and reprisals.

18. Replying to Ms. Gaer's questions, he said it was his understanding that deliberate omissions, but not accidental ones, could constitute acts of reprisal. The wording of paragraph 3 of the San José Guidelines, which stated that omissions were attributable to the State when they were carried out with the consent or acquiescence of an official, appeared to confirm his view that an omission must be deliberate. After all, one could hardly consent or acquiesce to an action or omission of which one was unaware.

The public part of the meeting rose at 3.50 p.m.